



Appeal Decision

Site Visit made on 12 January 2021

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 21 January 2021

Appeal Ref: APP/H3510/W/20/3260712

The Old Maltings, The Street, Barton Mills, IP28 6AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Ms J Shaw against the decision of Forest Heath District Council.
 - The application Ref DC/20/0740/FUL, dated 2 May 2020, was refused by notice dated 30 July 2020.
 - The development proposed is detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: -
 - The effect of the proposal on the character and appearance of the site and the immediate area with particular reference to the Barton Mills Conservation Area (the CA) and trees, and: -
 - The risk of pollution or risk to human health arising from the development with particular regard to contaminated land.

Reasons

Character and appearance

3. The appeal site is made up of an area of hardstanding and an area of scrub planting associated with The Old Maltings, forming part of a courtyard which provides car parking for The Maltings. It fronts onto The Street and is identified as a Regeneration Opportunity within the Barton Mills Conservation Area (the CA). The site contains what appears to be a garage/storage building and, at the time of my site visit, a storage container.
4. The area is predominantly residential, with detached dwellings of varying scales and design, but principally of brick or rendered construction, with tiled roofs. The Old Maltings is identified as a Building of Local Importance within the CA and has facades with a mix of painted and exposed brick, with a slate roof. There is, however, a timber extension facing onto the yard. It contains a number of residential units and its scale and appearance is reflective of its domestic function, as well as its industrial past. The residential units form a block, rather than being separate, detached units as is more typical of the area.

5. Opposite the site lies The Bull Inn, a Grade II Listed Building (the LB). To the north lies the River Lark, set in a treed meadow providing a backdrop to the buildings within the CA. There are several trees in the rear part of the site, towards the western boundary and these make a positive contribution to the verdancy of the view towards the river from The Street, glimpsed through the courtyard.
6. The significance of the CA, in so far as it relates to this appeal, derives from its evidential, historic and aesthetic value found in the authenticity of its rural vernacular architecture. The character and appearance of the CA in this vicinity is of a spacious village street with buildings of predominantly brick and render, set against a verdant backdrop.
7. The proposal would introduce a substantial timber dwelling of barn-like appearance, with a complex slate roof form, into this area, together with a smaller cycle store/shed.
8. Whilst the scale of the buildings, at 1½ storeys, would not be out-of-keeping with the scale of buildings in the locality, the materials and design, with its complicated roof form, would not reflect the prevalent domestic architecture of the locality. Nor would it sit comfortably with the materials and design features of the Old Maltings. It would thus create an incongruous feature in the area when viewed from The Street. Further, the cycle store/shed, albeit of smaller scale, would enclose the courtyard, further urbanising the view towards the river, notwithstanding that this area is characterised by its use for car parking. In this case this incongruity and urbanisation would, given the limited views of the proposal from the surrounding area, result in moderate harm to the character and appearance of the area, and hence would fail to preserve that of the CA.
9. Although the proposal would sub-divide the land associated with The Old Maltings, and the plots of dwellings in the area are generally generous in respect of built-area within them, the proposal would provide a private rear garden and landscaped area in front of the proposed dwelling that would not be out-of-keeping with the size of nearby dwellings.
10. The appellant has referred to a Tree Survey carried out for a previously approved development¹. However, a copy of this document has not been provided. The document would appear to have been written some time ago and, on that basis, is likely to have limited application in regard to the current situation.
11. It is intended to remove some trees within the site and, given the importance that I have placed on the trees in providing a verdant backdrop to development within the CA, I cannot be certain that the reduction in tree numbers would not have an adverse impact upon the character or appearance of the immediate area and therefore result in additional harm to that which I have identified above.
12. Whilst the LB lies opposite, the proposal is well screened from wider views by existing development and planting and would not appear in views encompassing the LB. I therefore find that the proposal would not have any significant impact on the setting of the LB.

¹ Council Ref: F/2010/0730/FUL

13. In conclusion, I therefore find that the development would cause moderate harm to the character and appearance of the site and immediate area, and hence to the Barton Mills Conservation Area. The proposal would, therefore, not comply with the expectations of the Planning (Listed Buildings and Conservation Areas) Act 1990. It would be contrary to Policies DM13, DM17 and DM22 of the West Suffolk Forest Heath and St Edmundsbury Local Plan Joint Development Management Policies Document -2015- (the DMPD). These policies jointly, amongst other things, require development to maintain or create a sense of place and/or character utilising the characteristics of the locality, including trees, to create buildings and spaces that have a strong sense of place and distinctiveness and preserve or enhance the character or appearance of the Conservation Area.
14. Whilst predating the current Framework, these policies are in close conformity with the aims of Sections 12 and 16, with which the proposal would also be in conflict, and therefore carry significant weight.
15. The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. As a consequence of its design the appeal scheme would have a harmful impact on the CA insofar as it would neither preserve nor enhance the character or appearance of the CA. The proposal would not lead to the loss of any buildings that make a positive contribution to the character or appearance of the CA. As such, whilst material, I find that the harm would be less than substantial. Paragraph 196 of the Framework directs that where a development proposal will lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal.
16. The development would provide public benefits in terms of providing an additional dwelling to supplement local housing stock. There would be likely minor benefits to the local economy in terms of short term employment in the construction industry and longer term support of local shops and businesses. However, benefits would be limited by the scale of the development.
17. The benefits of the proposal would be of limited weight overall. The proposal would result in a moderate level of harm to the significance of a designated heritage asset. However, the harm must be considered in the context of the special attention I must pay to the desirability of preserving or enhancing the character or appearance of the CA . I afford considerable importance and weight to this statutory duty. This does not amount to a direction to refuse proposals that harm, and thus fail to preserve, designated heritage assets, but it provides a strong presumption in favour of preservation
18. On the evidence before me I therefore conclude that the public benefit, in this case, has not been demonstrated to outweigh the less than substantial harm identified to the CA.

Contaminated Land

19. The appellant has submitted a Sitecheck Report which concludes that the level of risk associated with the site is not such that the property would be designated "Contaminated Land" within the meaning of Part IIA of the Environmental Protection Act 1990. Further the wider site has already been developed for residential use.

20. However, the site has had a previous use that is associated with a risk of contamination. I note the concerns of the Council's Environmental Health Officer with regard to the previous use and, in these circumstances, it would be prudent to safeguard against the presence of unexpected contaminants. The level of contamination, on the basis of the evidence before me, is likely to be low and, had I been minded to allow this appeal, this could be achieved by the use of suitably worded planning conditions.
21. I therefore conclude that there remains risk of pollution or risk to human health arising from the development with particular regard to contaminated land, but that this risk could be suitably addressed by the use of a suitably worded planning condition. The proposal would, therefore, subject to the imposition of such a condition, comply with Policy DM14 of the DMPD, in as much as this seeks to ensure that development does not result in an unacceptable risk from pollution or other environmental hazards.

Conclusion

22. For the reasons given above I conclude that the appeal should be dismissed.

I Dyer

INSPECTOR